

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN (DETROIT)

In Re:

Charlene Renee Thomas-Tindle.

Case No. 10-56752-wsd  
Chapter 13 Case  
Hon. Walter Shapero.Detroit

Debtor.

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**JEFFERSON VILLAGE CONDOMINIUM ASSOCIATION'S MOTION FOR  
RELIEF FROM THE AUTOMATIC STAY**

Jefferson Village Condominium Association (the "Association"), by its attorneys, Makower Abbate and Associates, for its Motion for Relief from the Automatic Stay, states as follows:

1. Charlene Renee Thomas-Tindle ("Debtor") owns a residential condominium unit in Detroit, Michigan (the "Residence"), being Unit 13 of Jefferson Village Condominium (the "Condominium"), which Residence is commonly known as 1234 Montclair Avenue, Detroit, MI, which, upon information and belief, serves as the Debtor's primary residence.

2. The Association is the condominium association for the Condominium community in which the Residence is located. The Debtor was required to pay monthly fees and assessments to the Association. Pursuant to Section 108 of the Michigan Condominium Act, the Association has a lien on the Residence to secure payment of the fees and assessments.

3. The Debtor filed a Chapter 13 Petition on or about May 20, 2010, and a proposed Chapter 13 Plan on or about June 3, 2010. The Debtor's Chapter 13 Plan was confirmed on or about October 6, 2010.

4. The Debtor's Chapter 13 Plan does not provide for treatment of the Association's secured claims and, as such, the Association's secured claim was to be paid by Debtor directly to the Association.

5. Direct payments are not being remitted to the Association in an amount sufficient to cover all fees and assessments which are owed by the Debtor to the Association, and the Debtor is currently in arrears in the payment of fees and assessments to the Association in the amount of \$2,859.80.

6. Cause exists to grant the Association relief from the automatic stay because the debt owing to the Association is fully secured pursuant to a lien granted by Section 108 of the Michigan Condominium Act and the Debtor is not making payments to the Association on its secured claim.

7. Concurrence was sought for the relief requested herein but was not forthcoming, and hence it is necessary to file this Motion.

WHEREFORE, The Association requests that this Court grant its motion for Relief from the Automatic Stay by entering the Order attached hereto as Exhibit A.

Respectfully submitted,  
MAKOWER ABBATE AND ASSOCIATES

/s/ Stephen M. Guerra  
Stephen M. Guerra (P67653)  
Attorney for Jefferson Village  
Condominium Association  
30140 Orchard Lake Road  
Farmington Hills, Michigan 48334  
(248) 254-7600

Dated: February 17, 2011

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN (DETROIT)

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**JEFFERSON VILLAGE CONDOMINIUM ASSOCIATION'S BRIEF IN SUPPORT OF  
ITS MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

Jefferson Village Condominium Association (the "Association"), by its attorneys, Makower Abbate and Associates, submits this Brief in Support of its Motion for Relief from the Automatic Stay.

**SUMMARY OF FACTS**

Charlene Renee Thomas-Tindle ("Debtor") owns a residential condominium unit in Detroit, Michigan (the "Residence"), being Unit 13 of Jefferson Village Condominium (the "Condominium"), which Residence is commonly known as 1234 Montclair Avenue, Detroit, MI, which, upon information and belief, serves as the Debtor's primary residence. The Association is the condominium association for the Condominium community in which the Residence is located. The Debtor was required to pay monthly fees and assessments to the Association. Pursuant to Section 108 of the Michigan Condominium Act, the Association has a lien on the Residence to secure payment of the fees and assessments.

The Debtor filed a Chapter 13 Petition on or about May 20, 2010, and a proposed Chapter 13 Plan on or about June 3, 2010. The Debtor's Chapter 13 Plan was confirmed on or about October 6, 2010. The Debtor's Chapter 13 Plan does not provide for treatment of the

Association's secured claims and, as such, the Association's secured claim was to be paid by Debtor directly to the Association. Direct payments are not being remitted to the Association in an amount sufficient to cover all fees and assessments which are owed by the Debtor to the Association, and the Debtor is currently in arrears in the payment of fees and assessments to the Association in the amount of \$2,859.80.

### **DISCUSSION**

PURSUANT TO 11 USC § 362(d)(1), CAUSE EXISTS TO GRANT RELIEF FROM THE AUTOMATIC STAY BECAUSE (1) THE DEBT OWING TO THE ASSOCIATION IS FULLY SECURED PURSUANT TO A LIEN GRANTED BY SECTION 108 OF THE MICHIGAN CONDOMINIUM ACT AND (2) THE DEBTOR IS NOT MAKING PAYMENTS TO THE ASSOCIATION ON ITS SECURED CLAIM

11 USC § 362(d)(1) provides that the Court may grant relief from the automatic stay for "cause." Cause exists to grant the Association relief from the automatic stay so that it can foreclose its lien on the Residence because the debt owing to the Association is fully secured pursuant to a lien granted by Section 108 of the Michigan Condominium Act and the Debtor is not making payments to the Association on its secured claim.

### **CONCLUSION**

For the reasons stated above, the Association respectfully requests this Court to enter the order attached as Exhibit A granting it relief from the automatic stay.

Respectfully submitted,  
MAKOWER ABBATE AND ASSOCIATES

/s/ Stephen M. Guerra \_\_\_\_\_  
Stephen M. Guerra (P67653)  
Attorney for Jefferson Village  
Condominium Association  
30140 Orchard Lake Road  
Farmington Hills, Michigan 48334  
(248) 254-7600

Dated: February 17, 2011

**EXHIBIT A**

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN (DETROIT)

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**ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY**

This matter having come before the Court on Jefferson Village Condominium Association's Motion for Relief from Automatic Stay (the "Motion") and the Court being otherwise fully advised in the premises:

IT IS ORDERED, that the automatic stay of section 362(a) of the Bankruptcy Code is hereby terminated as to Jefferson Village Condominium Association and Jefferson Village Condominium Association is granted leave to exercise its rights in the Residence commonly known as 1234 Montclair Avenue, Detroit, MI, which, upon information and belief, serves as the Debtor's primary residence.

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BANKRUPTCY COURT JUDGE

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN (DETROIT)

In Re:

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**NOTICE OF AND OPPORTUNITY TO RESPOND TO  
JEFFERSON VILLAGE CONDOMINIUM ASSOCIATION'S MOTION  
FOR RELIEF FROM THE AUTOMATIC STAY**

Jefferson Village Condominium Association has filed a Motion with the Court for entry of an Order Granting Relief From The Automatic Stay.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not want the Court to grant the relief sought in the Motion, or if you want the Court to consider your view on the Motion, within 14 days, you or your attorney must:

1. File with the Court a written response or an answer, explaining your position at:<sup>1</sup>

United States Bankruptcy Court  
211 W. Fort Street  
Detroit, MI 48226

If you mail your response to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above.

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<sup>1</sup> Response or answer must comply with F.R. Civ. P. 8(b), (c) and (e).

You must also mail a copy to:

Stephen M. Guerra  
Makower Abbate and Associates, PLLC  
30140 Orchard Lake Road  
Farmington Hills, MI 48334

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the Motion and you will be served with a notice of date, time and location of the hearing.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that relief.

February 17, 2011

Respectfully submitted,  
Makower Abbate and Associates, PLLC

By: /s/ Stephen M. Guerra  
Stephen M. Guerra (P67653)  
Attorney for Jefferson Village  
Condominium Association  
30140 Orchard Lake Road  
Farmington Hills, MI 48334  
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STATEMENT REGARDING OWNERSHIP OF JEFFERSON  
VILLAGE CONDOMINIUM ASSOCIATION

The following entities directly or indirectly own 10% or more of any class of the corporation equity interest:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

(For additional names, attach a addendum to this form)

  X   There are no entities that directly or indirectly own 10% or more of any class of the corporations equity interest.

The undersigned is the:

  X   Creditor  
\_\_\_\_ Plaintiff  
\_\_\_\_ Defendant

Dated: February 17, 2011

/s/ Stephen M. Guerra

Signature of Authorized Individual  
For Corporate Party

Stephen M. Guerra  
Print Name

Attorney  
Title